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RUEHFR/AMEMBASSY PARIS 0478
RUCNDT/USMISSION USUN NEW YORK 0134
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SENSITIVE
SIPDIS

DEPT FOR AF/C
USUN FOR DMUERS
PARIS FOR RKANEDA
LONDON FOR PLORD
NAIROBI FOR AKARAS
AFRICOM FOR JKUGEL
INR FOR CNEARY
DRL FOR SCRAMPTON

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SUBJECT: CONTROVERSIAL ELECTORAL CODE SIGNED INTO LAW, FUTURE OF
ELECTIONS STILL IN QUESTION

REF: A. REF A (08 BANGUI 256, 251 AND PREVIOUS).

[1](#)B. REF B (09 BANGUI 68)

[1](#)1. (SBU) SUMMARY: On August 3, 2009, the controversial and much delayed Central African electoral code was signed into law by President Francois Bozize. Written as a consensus document after the Inclusive Political Dialogue (DPI) of December 2008, the law has since been reviewed by the Government, the National Assembly and the Constitutional Courts yet its passage comes with substantial discontent from the opposition. The contentious Article Twelve remains unchanged and the target of wide criticism by the opposition. It stipulates that the Prime Minister and President of the National Assembly, both of whom are considered President Francois Bozize's loyalists, are to pick the candidates for head of the Independent Electoral Commission (IEC). With the signing of the law, the dispute is now an academic one, and of greater importance is that the electoral process is once again at a standstill as Bozize has yet to set a date for the IEC's creation. Though the government claims it will decree the creation of the IEC by the end of August, if this delay persists, prospects for a proper and timely ballot will dim. Stalling the elections appears increasingly to be in Bozize's interests and may explain why there have been so many delays in planning elections that are five years in coming. END SUMMARY .

Article 12: The Polemic

[1](#)2. (SBU) The 2010 electoral code is a redraft of the 2005 version with heavy input from a committee set up in the wake of the DPI of December 2008 (Ref A) The follow up committee comprises twelve members, two from each of the following groups: The presidential majority (KNK), the opposition, the nonaligned political parties, political/military (read: rebel groups), civil society, and civil servants. The committee amended the 2005 code and submitted the proposed law to the government on May 29. The law was then sent to the National Assembly for

debate on June 11, modified, approved by acclimation as the opposition and the nonaligned parties boycotted the vote, and submitted to the Constitutional Court on June 27. It was in the modification of the law by the National Assembly that has caused an uproar, with the opposition crying foul over what they thought was to be a consensus document.

13. (SBU) The original Article 12 of the code, written with the consent of the follow up committee, stated that each of the groups would nominate two candidates and then a President would be chosen by vote of the 30 members (five from each of the aforementioned groups) of the Independent Electoral Commission. The government-dominated National Assembly rejected this proposition because by enshrining this rule in law, they argue, political/military groups would in effect be institutionalized into the law - a dangerous precedent. As a result, the National Assembly reverted Article 12 back to its 2005 language as the former system managed to pick a president who was accepted by all sides. But the political conditions of 2009 are very different than those of 2005. The National Assembly in 2005 was transitional and its president was considered neutral whereas today's president is a close associate of Bozize and the KNK dominate the legislature. The opposition therefore has no confidence that the commission will be independent or fair under such rules and are agitated. Though the opposition recognizes that the KNK is the elected majority and thus logically has the right to support the president's choices, they remain obstinate, exposing a fundamental breakdown in Central African democracy: the members of the National Assembly, though elected, are more responsive to the KNK and Bozize's needs than to their constituents due to patronage and other special favors granted to them. Thus, while in a more consolidated democracy the majority can dissent, in the CAR, it does not and this has led

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to the complete lack of faith from the opposition.

14. (SBU) With the signature of the bill by the President, the process now rests upon the creation of the IEC and no date has been set. This step is likely to last into late August and possibly September, leaving the country and the international community just six months to organize the elections. As previously reported, the government has not earmarked any money for the elections in their 2009 budget, though they have promised to do so in an additional budget to be passed in the coming months. Problematically, the international community -- with the notable exception of four million Euros from the European Commission -- has refused to allot money before an IEC has been established. Therefore, with the time running low, very little money has been set aside nor have any meaningful organizational steps been taken, leaving the prospects for the elections murky at best.

The Game Afoot

15. (SBU) If the election was held today, Bozize would likely win. The opposition is in tatters with the strongest party, the MLPC, torn in two between former Prime Minister and presidential candidate of 2005 Martin Ziguele and former President Ange-Felix Patasse (Ref B). Yet still, Bozize is stalling. The reasons are likely twofold:

- The longer it takes the IEC to set up, the longer it takes for the rules and dates of the election to be formalized. Because there are stiff penalties levied upon those that electioneer before the official start of the campaign, Bozize's advantages of incumbency, and the better (relatively) organized KNK, markedly increase his advantage in a short electoral season.

- The electoral lists of 2005 are in shambles and unusable. Therefore, a delayed electoral commission will be unlikely to complete the work of establishing inclusive electoral lists in time for the March ballot. The prefectures most affected by displacement and insecurity are exactly those that are least

likely to vote for Bozize (Bamingui-Bangoran, Nana-Grebizi, Ouham, Ouham-Pende, with the last two being the most populous in the CAR). The instability and difficulty in accessing and registering displaced persons means that these areas will almost certainly suffer from disenfranchisement.

¶6. (SBU) Some post contacts speculate that some in the opposition may actually want the elections to fail, thus causing a constitutional crisis similar to 1993, which ultimately granted power to some opposition leaders. After that election, President Andre Kolingba annulled vote results that were widely thought to have given the election to Patasse. As a result, a constitutional vacuum caused Kolingba to create the National Political Provisional Council of the Republic (CNPPR) as a parallel body that the President was forced to consult with before new elections were held. Made up of candidates from the election among others, this body is widely credited as helping pave the way to Patasse's election on the next ballot. It is therefore possible that secondary members of the opposition, and potentially even Ziguele/Patasse if they continue to lag far behind Bozize, are seeing the possibility of a constitutional crisis as a way to nullify the incumbent's inherent advantages and either force another election or simply try and place themselves in governing body that would give them access to political power. This theory was given further credence this week when a leading opposition figure demanded that an entirely new electoral code be written and debated. This would condense the electoral season down to a potentially impossible time frame as meeting the constitutionally mandated election date would be unfeasible and thus a constitutional crisis might ensure.

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¶7. (SBU) COMMENT: President Bozize, therefore, is running a high wire act in playing with the date of the election: while he is in a strong position today, he worries that a fickle electorate could shift between now and March. While a short elections season benefits him, the longer he waits, the more the opposition and the international community will become frustrated. This may lead to mistakes on his part, a flawed election, or something akin to the constitutional crisis of ¶1993.

¶8. (SBU) Embassy Bangui is very worried about what ill organized and flawed elections may portend for the CAR. Rebel groups in the northwest will undoubtedly use any perceived unfairness as further justification for rebellion and other regions may react the same way. Bozize, already held in low esteem by many observers, would suffer another blow to his legitimacy, which will threaten his already shaky regime. Lastly, the CAR, already tormented by 50 years of misrule, can ill afford another example of flawed electoral politics. By December 2009, at which time the IEC should be in place, a clearer picture will develop and Post will be in a better position to prognosticate the outcome of the 2010 election - but the initial signs are distressing.
END COMMENT.
COOK